



PUBLIC NOTICE

Federal Communications Commission
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Enforcement Bureau Provides Further Guidance to Interconnected Voice Over Internet Protocol Service Providers Concerning Enforcement of Subscriber Acknowledgement Requirement

WC Docket No. 04-36
WC Docket No. 05-196

In this Public Notice, the Enforcement Bureau (Bureau) provides further guidance to providers of interconnected voice over Internet protocol (VoIP) service concerning enforcement of the subscriber affirmative acknowledgement requirement set forth in the Commission's *VoIP Enhanced 911 (E911)* rules.¹ Specifically, the Bureau announces that it will continue to refrain, for an additional 30 days -- until September 28, 2005 -- from enforcing the requirement that VoIP providers obtain affirmative acknowledgements from 100% of their subscribers that they have read and understood an advisory concerning the limitations of their E911 service against those providers that meet the reporting requirements established below.

In addition to satisfying these reporting requirements, to be eligible for this extension, providers also must have filed a report on or before August 10, 2005 in accordance with the Bureau's *July 26, 2005 Public Notice*. The Bureau will evaluate the sufficiency of the updated reports filed by interconnected VoIP providers and take subsequent action as necessary.

Background. The Federal Communications Commission (FCC) released an Order on June 3, 2005,² requiring interconnected VoIP service providers³ to provide E911 capabilities to their subscribers

¹ *IP-Enabled Services and E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, 2005 WL 1323217, FCC, (rel. Jun 3, 2005) at ¶¶ 48, 73 (*VoIP E911 Order*); see also 47 C.F.R. §9.5(e).

² *VoIP E911 Order*.

³ "Interconnected VoIP service" means an interconnected Voice over Internet Protocol (VoIP) service that: (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet protocol-compatible customer premises equipment; and (4) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

no later than 120 days from the effective date of the Order.⁴ Additionally, as set forth in the *VoIP E911 Order*, all providers of interconnected VoIP service were required by July 29, 2005 to:

- Specifically advise every new and existing subscriber, prominently and in plain language, of the circumstances under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service (“advisory requirement”); and
- Obtain and keep a record of affirmative acknowledgement by every subscriber, both new and existing, of having received and understood the advisory described in the paragraph above (“affirmative acknowledgement requirement”); and
- Distribute to its existing subscribers warning stickers or other appropriate labels warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on or near the equipment used in conjunction with the interconnected VoIP service. Each interconnected VoIP provider should distribute such warning stickers or other appropriate labels to each new subscriber prior to the initiation of that subscriber’s service (“sticker requirement”).⁵

On July 26, 2005, the Bureau released a Public Notice stating that it would delay, until August 30, 2005, any enforcement action against any provider of interconnected VoIP service regarding the affirmative acknowledgement requirement if the provider filed a report by August 10, 2005, detailing its progress toward satisfying the customer advisory, affirmative acknowledgement, and sticker requirements. The Bureau further stated its expectation that interconnected VoIP providers would disconnect, by August 30, 2005, all subscribers from whom it had not received affirmative acknowledgements. The 30-day extension has allowed interconnected VoIP providers to continue to obtain affirmative acknowledgements from subscribers and minimize the number subject to potential disconnection.

The Bureau has reviewed numerous reports filed by VoIP providers on August 10. The reports demonstrate the significant efforts made by providers in complying with the 100% affirmative acknowledgement requirement. As a result of its review of these reports, the Bureau has determined that it will not initiate enforcement action, until September 28, 2005, regarding the affirmative acknowledgement requirement against those providers that: (1) previously filed reports on or before August 10, 2005 in accordance with the *July 26 Public Notice*; and (2) file two separate updated reports with the FCC by **September 1, 2005** and **September 22, 2005**, containing the information described below. During this additional period of time, the Bureau expects that all interconnected VoIP providers that qualify for this extension will continue to use all means available to them to obtain affirmative acknowledgements from all of their subscribers. Qualifying providers will also have additional time to consider “soft” or “warm” disconnect or suspension methods, as described below.

Subscriber Notification and Acknowledgement Status and Compliance Reports

In the September 1, 2005 and September 22, 2005 reports, each provider must submit the following information updating its August 10, 2005 report:

⁴ The effective date of the Order is July 29, 2005 (30 days from the date of publication in the Federal Register). 70 Fed. Reg. 37,273 (June 29, 2005).

⁵ *VoIP E911 Order* at ¶¶ 48, 73; see also 47 C.F.R. § 9.5.

- A detailed explanation regarding current compliance with the notice and warning sticker requirements *if* the provider did not notify and issue warning stickers or labels to 100% of its subscribers by the July 29, 2005 deadline. Providers expected to update this information include those that were in the process of providing notice and/or stickers to their subscribers, but had not completed the process by July 29, 2005.
- A quantification of the percentage of the provider's subscribers that have submitted affirmative acknowledgements as of the date of the September 1 and September 22 reports, and an estimation of the percentage of subscribers from whom the provider does not expect to receive an acknowledgement by September 28, 2005;
- A detailed description of any and all actions the provider plans to take towards any of its subscribers that do not affirmatively acknowledge having received and understood the advisory; and,
- A detailed description of any and all plans to use a "soft" or "warm" disconnect (or similar) procedure for subscribers that fail to provide an affirmative acknowledgement by September 28, 2005. The Bureau notes that in their August 10, 2005 reports some providers, such as Telephone, Inc. and Broadview Networks, Inc., state that they will use a "soft" disconnect procedure to disconnect those subscribers that ultimately do not acknowledge having received and understood the customer advisory. As the Bureau understands it, the soft disconnect procedure will either disallow all non-911 calls or intercept and send those calls to the provider's customer service department. Under this "soft" disconnect procedure, however, calls to 911 will continue to go to the appropriate Public Safety Answering Point (PSAP). A provider's September 1 and September 22 reports must include either a statement that the provider will use a "soft" or "warm" disconnect (or similar) solution as of September 28, 2005, or a detailed explanation of why it is not feasible for the provider to use a "soft" or "warm" disconnect solution, as described above.

Filing Procedures

Interconnected VoIP providers may file the above-referenced reports in this proceeding on or before September 1, 2005 and September 22, 2005. All reports must reference WC Docket No. 05-196 and should be labeled clearly on the first page as "Subscriber Acknowledgement Report (date)." The report may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), or (2) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (May 1, 1998).

- **Electronic Filers:** Compliance letters may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/>. Filers should follow the instructions provided on the website for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number (WC Docket No. 05-196).
- **Paper Filers:** Parties that choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.

Parties should also send a copy of their filings to:

- Byron McCoy, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, Room 4-A234, 445 12th Street, SW, Washington, D.C. 20554, or by email to byron.mccoy@fcc.gov;
- Kathy Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, Room 7-C802, 445 12th Street, SW, Washington, D.C. 20554, or by email to kathy.berthot@fcc.gov; and
- Janice Myles, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5-C140, 445 12th Street, SW, Washington, D.C. 20554, or by e-mail to janice.myles@fcc.gov.

Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

For further information regarding this proceeding, contact David Hunt, Telecommunications Consumers Division, Enforcement Bureau, (202) 418-1522, or Cynthia Bryant, Telecommunications Consumers Division, Enforcement Bureau, (202) 418-8164.

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